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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/938,221      | 08/23/2001  | Seiichi Kawano       | JP920000184US1      | 1698             |

25299 7590 02/25/2005

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| EXAMINER |
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VU, JIMMY T

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2821

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

**Office Action Summary**

Application No.

09/938,221

Applicant(s)

KAWANO, SEIICHI

Examiner

Jimmy T. Vu

Art Unit

2821

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 7-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

Despite applicant's disagreement, the examiner decides to provide new rejection as below. Other references have been incorporated to strengthen the examiner's position with respect to the brightness controlling apparatus comprising the evaluator and the display controller for controlling the brightness of the screen of the display unit.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 4-6 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Oshikoshi (U.S. Patent number 5,042,078).

Regarding claim 1, Oshikoshi discloses a brightness controlling apparatus, comprising:  
an evaluator (29) for detecting a feature of a certain window displayed on a screen of a display unit (Fig. 1, col. 4. lines 50-55); and

a display controller (18) for controlling the brightness of said screen of said display unit according to said feature of said window, detected by said evaluator (Fig. 1, col. 4, lines 50-55).

Regarding claim 2, Oshikoshi discloses the apparatus wherein said evaluator detects a type of application to be displayed in said window; and

said display controller controls said brightness of said screen of said display unit according to said type of said application software detected by said evaluator (Fig. 1, col. 4, lines 50-55).

Regarding claim 3, Oshikoshi discloses the apparatus wherein said evaluator detects a method by which data is displayed in said window; and

said display controller controls the brightness of said screen of said display unit according to said method by which data is displayed in said window, detected by said evaluator (Fig. 1, col. 4, lines 50-55).

Regarding claim 4, Oshikoshi discloses the apparatus wherein said evaluator calculates the display brightness in said window according to a draw signal issued to said window displayed on said screen of said display unit, and

said display controller controls the brightness of said screen of said display unit according to said display brightness in said window, calculated by said evaluator (Fig. 1, col. 4, lines 50-55).

Regarding claim 5, Oshikoshi discloses the apparatus wherein said evaluator detects a feature of a focused window on said screen, said focused window being selected from a plurality of windows displayed on said screen of said display unit (Fig. 1).

Regarding claim 6, Oshikoshi discloses the apparatus wherein said display controller sets the screen brightness of said display unit in case the rate of the size of said window whose

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feature is detected by said evaluator to the size of said screen of said display unit is over a certain value (Fig. 1).

***Remarks***

This application contains claims 7-17 drawn to an invention nonelected without traverse in Paper filed on 11/28/2003. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Conclusion***

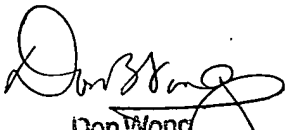
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T Vu whose telephone number is (571) 272-1832. The examiner can normally be reached on M - F: 9 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2800.

Jimmy Vu

February 14, 2005

  
Don Wong  
Supervisory Patent Examiner  
Technology Center 2800